

From: Lukas O'Dowd
To: Frederick.Phillips@USDOJ.GOV; [Yackulic, Ted](#)
Subject: Re: Settlement Agreement
Date: Thursday, April 26, 2018 12:08:45 PM

These possibilities look acceptable. When are the \$20 million of upgrades are scheduled to be completed at the CTP? Are the funds required for the upgrades are committed already? The upgrades are likely necessary in order to obtain the NPDES permit.

Luke O'Dowd

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On Apr 26, 2018, at 9:55 AM, Phillips, Frederick (ENRD)
<Frederick.Phillips@usdoj.gov> wrote:

Luke – we've been working on responding to comments -- like everything, it's a process (though I think we're nearly finished). The only change to the Settlement Agreement that I anticipate will look a lot like this (Ted hasn't had a chance to look at it yet):

33. Continue to convey AMD to the CTP for treatment until an alternate treatment option is approved by EPA. BHMC shall, not later than five years from the Effective Date, treat all AMD and other non-sanitary wastewater generated by the Mine and/or any Mine-related activity by:

- a. entering a lease agreement with EPA providing for BHMC to lease and operate the CTP;
- b. purchasing and operating the CTP; or
- c. constructing and operating a treatment plant.

Irrespective of the option BHMC employs for wastewater treatment, BHMC shall obtain an NPDES permit for its discharges within the five year period.

From: Lukas O'Dowd <luke@lyonsodowd.com>

Sent: Thursday, April 26, 2018 12:05 PM

To: Phillips, Frederick (ENRD) <FPhillips@ENRD.USDOJ.GOV>; Ted Yackulic
<yackulic.ted@epa.gov>

Subject: Settlement Agreement

Fred,

Can you send me the latest draft of the settlement agreement so we can start reviewing the changes?

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